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15 Attorneys for Plaintiff  
16 SUTTER HOME WINERY, INC.

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13

14 Sutter Home Winery, Inc.,  
15 Plaintiff,

16  
17 vs.  
18

19 The Wine Group LLC and Supervalu Inc.  
20 Defendants.  
21

CASE NO. 3:07-cv-5640-SC

**FIRST AMENDED COMPLAINT**

1. Federal Trademark Infringement
2. Federal Unfair Competition
3. Federal Trademark Dilution
4. California Trademark Infringement
5. California Unfair Competition
6. California False or Misleading Statements
7. California Dilution
8. Common Law Trademark Infringement and Passing Off

**DEMAND FOR JURY TRIAL**

22  
23  
24  
25 Plaintiff, Sutter Home Winery, Inc. ("Plaintiff"), for its complaint against Defendant,  
26 The Wine Group LLC, a Delaware limited liability company ("TWG"), and Defendant,  
27 Supervalu Inc., a Delaware corporation ("Supervalu") (collectively, "Defendants"), alleges as  
28 follows:

**NATURE OF ACTION**

1  
2 1. Plaintiff is the owner of the famous trademark SUTTER HOME for wine and the  
3 distinctive trade dress used with Plaintiff's SUTTER HOME White Zinfandel wine.  
4 Defendant TWG has adopted the similar mark J. SUTTON for White Zinfandel wine  
5 along with a trade dress similar to that of the SUTTER HOME White Zinfandel and  
6 Defendant Supervalu has sold or intends to sell the J. SUTTON wine in its retail stores.  
7 This is an action to redress violations of the federal Lanham Act for infringement of a  
8 federally registered trademark (15 U.S.C. §1114), unfair competition (15 U.S.C.  
9 §1125(a)), dilution of a federally registered trademark (15 U.S.C. §1125(c)), violation  
10 of the California Business and Professions Code for trademark infringement (Cal. Bus.  
11 & Prof. Code §14335), unfair competition (Cal. Bus. & Prof. Code §17200), the  
12 dissemination of false and misleading statements (Cal. Bus. & Prof. Code §17500) and  
13 trademark dilution (Cal. Bus. & Prof. Code §14330), and common law trademark  
14 infringement and palming off, as the result of willful and unauthorized use by  
15 Defendants of colorable imitations of Plaintiff's trademark and trade dress, as more  
16 fully set forth hereinafter. Plaintiff seeks preliminary and permanent injunctive relief  
17 restraining Defendants' infringement of Plaintiff's trademark, treble monetary  
18 damages, attorneys' fees and related relief.  
19  
20  
21

**THE PARTIES**

22  
23 2. Plaintiff Sutter Home Winery, Inc. is a California corporation with its principal place of  
24 business located at 100 St. Helena Hwy. South, St. Helena, CA 94574.  
25  
26 3. Upon information and belief, Defendant The Wine Group LLC is a Delaware limited  
27 liability company located at 240 Stockton Street, Suite 800, San Francisco, California  
28 94108-5325.

- 1 4. Upon information and belief, Defendant Supervalu Inc. is a Delaware corporation  
2 located at 11840 Valley View Road, Eden Prairie, Minnesota 55344.

3 **JURISDICTION AND VENUE**

- 4 5. This Court has subject matter jurisdiction over Plaintiff's claim under and pursuant to  
5 15 U.S.C. §1121 and 28 U.S.C. §1338(a), as the claims arise under the federal Lanham  
6 Act, 15 U.S.C. §§1051-1127. This Court also has pendent jurisdiction over all related  
7 claims herein in accordance with 28 U.S.C. §1338(b).
- 8 6. Upon information and belief, Defendants, either directly or through their agents,  
9 transacted business in the State of California and within this judicial district, as more  
10 specifically set forth below, and expected or should reasonably have expected their acts  
11 to have consequence in the State of California and within this judicial district.
- 12 7. Venue is proper in this district pursuant to 28 U.S.C. §1391(b), as Defendants are doing  
13 business in this judicial district and therefore may be found in this district, and/or as a  
14 substantial part of the events giving rise to the claims alleged herein occurred in this  
15 judicial district, and/or the infringement occurred or will occur in this judicial district.

16 **ALLEGATIONS COMMON TO ALL CLAIMS**

- 17 8. Plaintiff is the owner of U.S. Trademark Registration No. 1,385,404 for SUTTER  
18 HOME for wine. Such registration is valid and subsisting and owned by Plaintiff and is  
19 now incontestable in accordance with 15 U.S.C. §§1065 and 1115(b). A true and  
20 correct copy of this registration is attached hereto as Exhibit 1. Plaintiff is also the  
21 owner of California Trademark Registration No. 77466 for the mark SUTTER HOME  
22 for wine.
- 23 9. Since 1972, long prior to the acts of Defendants complained of herein, Plaintiff has  
24 used the mark SUTTER HOME in association with wine, and SUTTER HOME serves  
25 as Plaintiff's flagship brand. Other than Plaintiff's own trademarks and Defendants'

1 trademark at issue in this lawsuit, Plaintiff is not aware of any other wine in the United  
2 States with a brand name featuring the prefix letter-string “SUTT.”

3 10. Plaintiff also does business under the trade name Sutter Home Winery, Inc. and the  
4 name “Sutter Home Winery” appears on the back label as the producer of every bottle  
5 of SUTTER HOME wine produced and sold by Plaintiff.  
6

7 11. In the early 1970s, Plaintiff was the first winery to produce a slightly sweet “pink” wine  
8 produced from the Zinfandel grape variety. Plaintiff called this wine “White  
9 Zinfandel” and the popularity of this wine catapulted the SUTTER HOME wine brand  
10 to the forefront of well-known wine brands. Due to this history, SUTTER HOME  
11 White Zinfandel also carries the tag line THE ORIGINAL WHITE ZINFANDEL, for  
12 which Plaintiff owns a federal trademark registration (Reg. No. 2,928,736).  
13

14 12. Plaintiff currently produces thirteen different types of wine under the SUTTER HOME  
15 mark. However, the particular type of wine for which SUTTER HOME is most famous  
16 and which Plaintiff produces under the mark in a higher volume than any other wine  
17 type is White Zinfandel from the California appellation.  
18

19 13. The SUTTER HOME White Zinfandel wine is sold in a bottle with a distinctive trade  
20 dress composed of the following elements: 1) a clear glass Bordeaux-style bottle that  
21 allows the consumer to view the pink color of the wine; 2) a rose-colored capsule that  
22 covers the top and upper two-thirds of the bottle’s neck; 3) a rectangular white label  
23 outlined in silver and rose, in the middle of which is the mark SUTTER HOME in a  
24 Times New Roman style font, above which is a gray line drawing; and 4) a long  
25 rectangular rose-colored label appearing beneath the main label, within which appears  
26 the varietal designation “White Zinfandel.” This trade dress has been used by Plaintiff  
27 since prior to the adoption of Defendants’ J. SUTTON White Zinfandel trade dress.  
28 Following is an image of the SUTTER HOME White Zinfandel trade dress:



14. In 2006 alone, Plaintiff sold over three million six hundred thousand (3,600,000) 9-liter cases of SUTTER HOME White Zinfandel, which is equal to over forty-three million (43,000,000) 750 ml bottles. Since it first began use of the SUTTER HOME mark, Plaintiff has sold well over a billion bottles of wine under the mark. In the past five years alone, Plaintiff has sold over thirty six million (36,000,000) 9-liter cases of SUTTER HOME wine, the equivalent of over four hundred thirty-two million (432,000,000) 750 ml bottles of SUTTER HOME wine.

15. Plaintiff's dollar sales of SUTTER HOME wine since it first began use of the mark have been in the billions. In the past five years alone, Plaintiff's sales of the SUTTER HOME wine have exceeded one billion sixty million dollars (\$1,060,000,000).

1 16. According to AC Nielsen, the SUTTER HOME brand is among the top ten brands of best  
2 selling varietal categories. Sutter Home also produces a line of alcohol-free wines under  
3 the brand SUTTER HOME FRE. Among the trade, including distributors, retailers, wine-  
4 writers and restaurateurs, Plaintiff's brand is frequently referred to only by the first word  
5 of the composite mark – SUTTER.  
6

7 17. According to AC Nielsen, by volume, SUTTER HOME is the #1 brand of premium  
8 table wine in U.S. supermarkets. As reported in the current issue of wine-industry  
9 newsletter *Restaurant Wine* (Issue #119 & 120), SUTTER HOME is also the #7 brand  
10 of wine ordered in U.S. restaurants and SUTTER HOME White Zinfandel ranks #4  
11 among all wines sold in U.S. restaurants. According to a 2006 study by Scarborough  
12 Research, over 10.1 million U.S. consumers bought SUTTER HOME wine between  
13 May 2005 and September 2006.  
14

15 18. According to the 2007 "Equitrends" study by Harris Interactive, Among the top 5 wine  
16 brands in the United States, SUTTER HOME ranks #1 in familiarity, and #3 in  
17 consumer purchase intent and brand equity. According to a 2007 study of the 100 most  
18 powerful wine and spirit brands in the world conducted by the company Intangible  
19 Business, SUTTER HOME is one of the top 10 most powerful American wine or spirit  
20 brands along with JACK DANIELS, ROBERT MONDAVI and SOUTHERN  
21 COMFORT, among others, and SUTTER HOME is one of the top 10 most powerful  
22 wine brands in the world.  
23

24 19. Over the years Plaintiff has spent hundreds of millions of dollars marketing and  
25 advertising the SUTTER HOME brand.  
26

27 20. As a result of Plaintiff's sales and advertising of the brand, SUTTER HOME has become  
28 one of the most famous and recognizable wine brands in the United States, placing

1 SUTTER HOME among the strongest of marks and entitling it to the widest scope of  
2 protection, especially in relation to White Zinfandel wine from the California appellation.

3 21. Plaintiff's SUTTER HOME wine is also sold in scores of countries throughout the world  
4 and Plaintiff owns over thirty-five foreign trademark registrations for the SUTTER  
5 HOME mark for wine.

6  
7 22. Upon information and belief, Defendant Supervalu is a national grocery retailer with  
8 approximately 2,500 retail stores located in 48 states and the District of Columbia.  
9 Supervalu has annual revenues of approximately forty four billion dollars  
10 (\$44,000,000,000) and its store network includes the grocery chains Albertsons, Bristol  
11 Farms, Cub Foods, Lucky, Save a Lot, and Shop n' Save. Supervalu operates its retail  
12 stores, and/or licenses its trademarks for use in association with retail stores, throughout  
13 California and in this judicial district.

14  
15 23. On information and belief, the J. SUTTON brand is being developed and produced by  
16 Defendants and is intended for use exclusively with White Zinfandel wine from the  
17 California appellation. The J. SUTTON brand will be marketed by Supervalu at its  
18 retail stores as a "private label" brand to compete with White Zinfandel category  
19 leaders SUTTER HOME and BERINGER, and Defendants are recommending to  
20 distributors and/or individual Supervalu retailers that the J. SUTTON brand be  
21 positioned and promoted adjacent to BERINGER and SUTTER HOME White  
22 Zinfandel wines.

23  
24 24. Upon information and belief, the J. SUTTON White Zinfandel trade dress will be  
25 composed of the following elements: 1) a clear glass Bordeaux-style bottle that allows  
26 the consumer to view the pink color of the wine; 2) a rose-colored capsule that covers  
27 the top and upper two-thirds of the bottle's neck; 3) a rectangular white label outlined  
28

1 in silver and rose, in the middle of which is the mark J. SUTTON in a Times New  
2 Roman style font, above which is a gray line drawing; and 4) a long rectangular rose-  
3 colored box appearing beneath the J. SUTTON mark and offset from the main label,  
4 within which appears the varietal designation “White Zinfandel.”

5  
6 25. On information and belief, TWG owns U.S. Trademark Application Serial Number  
7 77/086,000 for the mark J. SUTTON for wine, which was filed based upon TWG’s  
8 intent to use the mark in commerce. In conjunction with this trademark application,  
9 TWG submitted a statement on April 27, 2007, that the name “J. SUTTON” does not  
10 identify any particular living individual. On November 8, 2007, two days after  
11 Plaintiff’s initial Complaint in this proceeding was filed and served on TWG, TWG  
12 amended its trademark application to state that the J. SUTTON mark was now in use in  
13 commerce and that, contrary to its earlier assertion, the mark did, in fact, refer to a  
14 living individual, namely, a man by the name of John Sutton. Upon information and  
15 belief, John Sutton is TWG’s in-house counsel. In connection with the November 8,  
16 2007, amendment, John Sutton submitted a signed statement giving his written consent  
17 to registration of the mark J. SUTTON. Plaintiff’s information and belief are based  
18 upon a review of the U.S. Patent and Trademark Office (“USPTO”) Trademark  
19 Electronic Search System (“TESS”) database and Trademark Document Retrieval  
20 (“TDR”) service.

21  
22  
23 26. Before a wine may be shipped or sold in interstate commerce, the producer of such  
24 wine must apply for and receive a Certificate of Label Approval (“COLA”) from the  
25 Alcohol and Tobacco Tax and Trade Bureau (“TTB”) of the U.S. Department of  
26 Treasury. On information and belief, based on a review of the TTB online COLA  
27 database, two COLAs were issued to TWG on September 29, 2007 for labels for  
28



1 California White Zinfandel wine with the brand name J. SUTTON. The TTB ID  
2 numbers for these COLAs are 07262001000234 and 07262001000236. The labels  
3 represented in these COLAs are reflective of the labels in the trade dress for the J.  
4 SUTTON White Zinfandel brand described above in paragraph 22. The back label for  
5 the J. SUTTON wine set forth in these COLAs indicates that the wines' producer is "J.  
6 Sutton Vineyards" and the COLA further indicates that this is a fictitious business name  
7 for Defendant, The Wine Group. The text on the back labels set forth in these COLAs  
8 does not indicate any origin or meaning for the brand name J. SUTTON.  
9

10 27. On information and belief, the J. SUTTON brand White Zinfandel was launched in  
11 early November 2007.  
12

13 28. On both October 31, 2007 and November 1, 2007, Plaintiff's President contacted Ken  
14 Lizar, the Chief Operating Officer for TWG and left word of Plaintiff's objection to the  
15 use of the J. SUTTON brand and requested that TWG immediately contact Plaintiff to  
16 discuss the issue. Plaintiff did not receive any response from TWG to these requests  
17 and so Plaintiff proceeded with filing the initial Complaint in this proceeding. On  
18 November 20, 2007, Plaintiff's President and Vice-President and General Counsel met  
19 with Ken Lizar and John Sutton, the in-house attorney for TWG, to reiterate Plaintiff's  
20 objections and request again that Defendants cease use of the J. SUTTON name. TWG  
21 responded that it had developed the J. SUTTON brand for use by Supervalu, that  
22 neither it nor Supervalu intended to cease use of J. SUTTON, and that despite  
23 Plaintiff's objections their introduction of the J. SUTTON product would continue as  
24 planned.  
25

26 29. The use of the J. SUTTON mark and trade dress by Defendants is likely to confuse  
27 consumers into believing that Defendants' J. SUTTON wine is affiliated with,  
28

1 associated with, connected to, or sponsored by Plaintiff and Defendants will unjustly  
2 benefit from such association. The use of the J. SUTTON mark by Defendants is also  
3 likely to dilute the Plaintiff's SUTTER HOME mark by blurring through association  
4 arising from the similarity between Defendants' J. SUTTON mark and Plaintiff's  
5 famous SUTTER HOME mark that will result in an impairment of the distinctiveness  
6 of the famous SUTTER HOME mark. Such likelihood of dilution by blurring is  
7 supported by the similarity of the marks at issue, the distinctiveness of the SUTTER  
8 HOME mark, the exclusivity of Plaintiff's use of its SUTTER HOME mark, the high  
9 degree of consumer recognition of the SUTTER HOME mark, and upon information  
10 and belief, Defendants' intent to create association with Plaintiff's famous SUTTER  
11 HOME mark.  
12

13  
14 30. Plaintiff will be harmed by such confusion as it will suffer loss of sales when  
15 consumers purchase the J. SUTTON wine believing it to be the market leader,  
16 SUTTER HOME, and Plaintiff will also lose control of its mark as a result of such  
17 confusion and the value of the brand will be diminished as a result of such confusion  
18 and dilution.

19  
20 31. Based upon information and belief resulting from Defendants' response to Plaintiff's  
21 objections to Defendants' use of the J. SUTTON mark, Defendants have not changed  
22 their plans to use the J. SUTTON mark, and unless restrained by this Court, Defendants  
23 will continue forward with their plans to unfairly compete with Plaintiff by using such  
24 mark, wherefore Plaintiff is without adequate remedy at law.

25  
26 32. Based upon statements made by TWG to Plaintiff in the November 20, 2007, meeting  
27 indicating that the J. SUTTON brand is targeted to consumers to compete directly with  
28 Plaintiff's SUTTER HOME brand, Defendants' intent in using the J. SUTTON mark

1 and trade dress is to profit from the goodwill associated with Plaintiff's SUTTER  
2 HOME trademark and trade dress. As evidenced by TWG's representations to the  
3 USPTO regarding its trademark application and the back-label copy for the packaging,  
4 the selection of J. SUTTON as a trademark was not done to reference any particular  
5 individual, but rather to have a mark that closely mimics the famous SUTTER HOME  
6 mark for White Zinfandel, notwithstanding TWG's subsequent and contrary statements  
7 to the USPTO following initiation of this lawsuit. This case is an exceptional case  
8 entitling Plaintiff to treble damages and attorneys' fees.  
9

### 10 **FIRST CAUSE OF ACTION**

11 (Federal Trademark Infringement under 15 U.S.C. §1114)

12 33. Plaintiff restates and reavers the allegations of Paragraphs 1 through 32, inclusive, and  
13 the acts of Defendants asserted therein as if set forth in full as part of this Cause of  
14 Action.  
15

16 34. Defendants' above-averred actions will constitute use in commerce of a reproduction,  
17 counterfeit, copy or colorable imitation of Plaintiff's registered mark in connection with  
18 the sale, offering for sale, distribution or advertising of goods or services on or in  
19 connection with which such use is likely to cause consumer confusion, deception or  
20 mistake as to source, sponsorship or approval of the Defendants' aforesaid services in  
21 violation of 15 U.S.C. §1114.  
22

### 23 **SECOND CAUSE OF ACTION**

24 (Federal Unfair Competition under 15 U.S.C. §1125(a))

25 35. Plaintiff restates and reavers the allegations of Paragraphs 1 through 34, inclusive, and  
26 the acts of Defendants asserted therein as if set forth in full as part of this Cause of  
27 Action.  
28

1 36. The Defendants' above-averred actions will constitute use in commerce of a word,  
2 name or device and false designation of origin which is likely to cause confusion, or to  
3 cause mistake, or to deceive as to affiliation, connection or association of Defendants  
4 with Plaintiff or as to the origin, sponsorship or approval of the Defendants' services or  
5 the goods offered in connection therewith in violation of 15 U.S.C. §1125.  
6

7 **THIRD CAUSE OF ACTION**

8 (Federal Trademark Dilution under 15 U.S.C. §1125 (c))

9 37. Plaintiff restates and reavers the allegations of Paragraphs 1 through 36, inclusive, and  
10 the acts of Defendants asserted therein as if set forth in full as part of this Cause of  
11 Action.  
12

13 38. The Defendants' above averred actions will constitute use in commerce of a mark that  
14 is likely to cause dilution by blurring of Plaintiff's earlier-used famous, distinctive mark  
15 through association arising from the similarity between Defendants' J. SUTTON mark  
16 and Plaintiff's famous SUTTER HOME mark that will result in an impairment of the  
17 distinctiveness of the famous SUTTER HOME mark in violation of 15 U.S.C.  
18 §1125(c).  
19

20 **FOURTH CAUSE OF ACTION**

21 (State Trademark Infringement under Cal. Bus. & Prof. Code §14335)

22 39. Plaintiff restates and reavers the allegations of Paragraphs 1 through 38, inclusive, and  
23 the acts of Defendants asserted therein as if set forth in full as part of this Cause of  
24 Action.  
25

26 40. The Defendants' above-averred actions will constitute infringement upon a mark  
27 registered under Title 15 of the United States Code and Cal. Bus. & Prof. Code §14220  
28 *et seq.* in violation of Cal. Bus. & Prof. Code §14335.

**FIFTH CAUSE OF ACTION**

(State Unfair Competition under Cal. Bus. & Prof. Code §17200)

41. Plaintiff restates and reavers the allegations of Paragraphs 1 through 40, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

42. The Defendants' above-averred actions will constitute unlawful, unfair or fraudulent business acts or practices in violation of Cal. Bus. & Prof. Code §17200.

**SIXTH CAUSE OF ACTION**

(False or Misleading Statements under Cal. Bus. & Prof. Code §17500)

43. Plaintiff restates and reavers the allegations of Paragraphs 1 through 42, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

44. The Defendants' above-averred actions in using a trademark and trade dress that suggests an association with Plaintiff will constitute the dissemination and making of untrue or misleading statements, which by the exercise of reasonable care should have been known to be false or misleading, in violation of Cal. Bus. & Prof. Code §17500.

**SEVENTH CAUSE OF ACTION**

(Trademark Dilution under Cal. Bus. & Prof. Code §14330)

45. Plaintiff restates and reavers the allegations of Paragraphs 1 through 44, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

46. The Defendants' above-averred actions will constitute use in commerce of a mark that is likely to cause dilution of the distinctive qualities of Plaintiff's SUTTER HOME trademark in violation of Cal. Bus. & Prof. Code §14330.

**EIGHTH CAUSE OF ACTION**

(Common Law Trademark Infringement and Passing Off)

47. Plaintiff restates and reavers the allegations of Paragraphs 1 through 46, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

48. The Defendants' above-averred actions will constitute trademark infringement and passing off in violation of the common law of California.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that judgment be entered as follows:

1. That Defendants, their principals, partners, franchisees, agents, employees, licensees, affiliates, any parent and subsidiary companies, attorneys and representatives and all of those in privity with or acting under their direction and/or pursuant to their control, be preliminarily and permanently enjoined and restrained, from directly or indirectly:

a. Using the mark J. SUTTON or the J. SUTTON trade dress, or terms, marks, symbols or indicia confusingly similar to the SUTTER HOME mark and trade dress, in connection with the production, advertisement, promotion, distribution, offering for sale or selling of wine, or products or services related to wine;

b. Performing any acts or using any service marks, trademarks, names, words or phrases that are likely to cause confusion, to cause mistake, to deceive or otherwise mislead the trade or public into believing that Plaintiff and the Defendants are one in the same or are in some way connected or that Plaintiff is a sponsor of the either of the Defendants or that the services or

1 goods of either of the Defendants originate with Plaintiff or are likely to lead  
2 the trade or public to associate the Defendants with Plaintiff;

3 2. That Defendants be required to file with the Court, and serve on Plaintiff, a  
4 statement under oath evidencing compliance with any preliminary or permanent  
5 injunctive relief ordered by the Court within fourteen (14) days after the entry of  
6 such order of injunctive relief.

7  
8 3. That Defendants, their principals, partners, franchisees, agents, employees,  
9 licensees, affiliates, any parent and subsidiary companies, attorneys and  
10 representatives and all of those in privity with or acting under their direction and/or  
11 pursuant to its control, be required to deliver up for destruction all advertising,  
12 promotional, point-of-sale, table-talker, packaging, labels, corks, capsules, case  
13 shippers and any other materials bearing the infringing mark or trade dress together  
14 with all artwork, plates, molds, matrices and other means and materials for making  
15 and reproducing the same;

16  
17 4. That Defendants, jointly and severally, be ordered to pay Plaintiff monetary  
18 damages for the harm resulting from infringement of Plaintiff's mark, in an amount  
19 to be determined at trial;

20  
21 5. That the Commissioner of the U.S. Patent and Trademark Office be ordered to  
22 refuse registration of U.S. Trademark Application Serial No. 77/086,000 based  
23 upon 15 U.S.C. §§1052(d) and 1063(a);

24 6. That Plaintiff's damages be trebled and that Defendants be ordered to pay  
25 Plaintiff's attorneys' fees on the basis that this is an exceptional case;

26 ///

27 ///

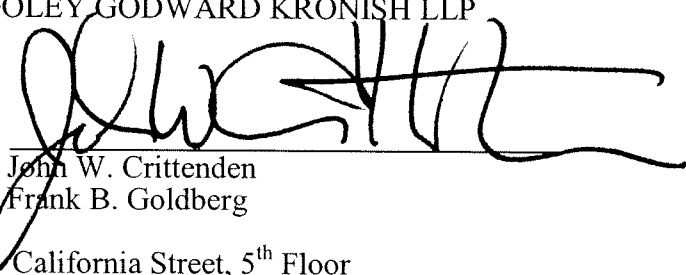
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1           7.       That Plaintiff have such other and further relief as this Court shall deem just and  
2                   proper on the merits.

3  
4           Dated: 11/21/07

5  
6                   Respectfully submitted,

7                   COOLEY GODWARD KRONISH LLP

8  
9           By   
10               John W. Crittenden  
              Frank B. Goldberg

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18                   Attorneys for Plaintiff,  
19                   Sutter Home Winery, Inc.



DEMAND FOR JURY TRIAL

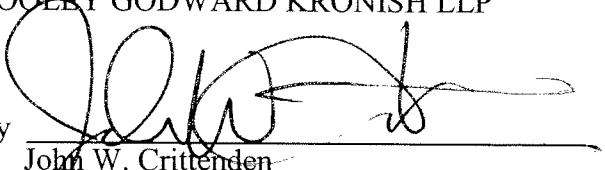
Plaintiff hereby requests a trial by jury in this matter.

Dated: 11/21/07

Respectfully submitted,

COOLEY GODWARD KRONISH LLP

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Attorneys for Plaintiff,  
Sutter Home Winery, Inc.

# **Exhibit 1**

**Int. Cl.: 33**

**Prior U.S. Cl.: 47**

**United States Patent and Trademark Office** **Reg. No. 1,385,404**  
**Registered Mar. 4, 1986**

---

**TRADEMARK  
PRINCIPAL REGISTER**

**SUTTER HOME**

SUTTER HOME WINERY, INC. (CALIFORNIA  
CORPORATION)  
P. O. BOX 248  
ST. HELENA, CA 95474

FIRST USE 0-0-1900; IN COMMERCE  
0-0-1972.

SER. NO. 540,941, FILED 6-3-1985.

FOR: WINE, IN CLASS 33 (U.S. CL. 47).

AMANDA LAURA NYE, EXAMINING ATTOR-  
NEY